

Application No.: 09/855,199

Docket No.: MWS-070RCE3

REMARKS

Claims 1-2, 4-6, 12-13, 15-18 and 21-24, 28-30, 32, 34-40, 42-49, 51-38, and 60-78 were presented for examination, of which claims 1, 5, 12, 17, 24, 32, 34, 43, 52, 61, 66, 70, and 74 are independent. Claims 3, 7-11, 14, 19-20, 25-27, 31, 33, 41, 50 and 59 were previously canceled. Claim 12 is amended herein without prejudice or disclaimer. The amendment addresses matters of form only. No new issues are raised by this amendment.

I. Claim Rejections under 35 U.S.C. §112

The Examiner rejects claims 12-16 under 35 U.S.C. §112 for failing to point out and distinctly claim the subject matter which the Applicants regard as the invention. The Examiner suggests that there is insufficient antecedent basis for the phrase "at least one state and at least one transition" in claim 12, because the claim refers only to "at least one state or transition." Applicants amend claim 12 to recite "the at least one state or transition." Claims 13 and 15-16 depend from claim 12. Claim 14 has been previously canceled. Applicants respectfully submit that this amendment addresses the Examiner's concerns regarding claims 12-16, and respectfully request that the Examiner withdraw the 35 U.S.C. §112 rejection of claims 12-16.

II. Claim Rejections under 35 U.S.C. §103

Claims 1-2, 4-6, 12-13, 15-18, 21-24, 28-30, 32, 34-40, 42-49, 51-58, and 60-78 have been rejected under 35 U.S.C. §103(a) as being anticipated by United States Patent Publication No. 2002/0083413 to Kodosky et al. (hereafter "Kodosky") in view of Stateflow Version 3.0 (R11) (hereafter "Stateflow 3"). Applicants respectfully traverse this rejection.

Unless it is a statutory bar, a rejection based on a publication may be overcome by a showing that it was published either by the Applicant himself, or on his behalf (MPEP 715.01(c)). If the publication date of the cited reference is not more than one year prior to the effective filing date of the Application, then the reference does not create a statutory bar under 35 U.S.C. §102(b) (MPEP §706.02(a)(II)(A)). The present Application claims and is entitled to, at least, the priority date of May 14, 2001, the filing date of the present Application. Applicants submit herewith a Declaration under 37 C.F.R. §1.132 by the Inventors, who are also employees of the Assignee, the MathWorks, Inc. The Declaration indicates that the internal records of the

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MathWorks, Inc. show that Stateflow 3 was released to the public on or after May 20, 2000 (132 Declaration at paragraph 5). Thus, the 35 U.S.C. §103(a) rejection is not a statutory bar.

An uncontradicted "unequivocal statement" from the Applicants regarding the subject matter disclosed in an article, patent, or published application will be accepted as establishing inventorship of the subject matter in the reference (MPEP 716.10). As recited in the 37 C.F.R. §1.132 declaration, the publication relied upon by the Examiner is a publication, by the Applicants' employer, of the Applicants' invention.

Specifically, the Applicants state that they invented graphical functions for use in modeling systems for finite state machines, as described in the present Application (132 Declaration at paragraph 2). Stateflow Version 3.0 (R11), a software package developed and released by the Applicants' employer, incorporates the graphical functions that the Applicants invented (132 Declaration at paragraph 3). Stateflow Version 3.0 (R11) is described in the documentation that the Examiner cites in the Office Action (132 Declaration at paragraph 4). Specifically, the cited Figure shows the graphical functions invented by the Applicants, which are the subject matter of the present Application (132 Declaration at paragraph 4).

Accordingly, the relevant subject matter in Stateflow 3 was derived from the invention of the Mr. Raghavan and Mr. Torgerson, who are the Applicants in the current Application. Thus, the reference is a publication of the Applicant's own invention. Because the reference is a publication of the Applicants' own invention, the graphical functions described in the reference could not have been invented before the Applicants date of invention.

The Examiner recognizes that Kodosky does not teach or suggest a function prototype, or that the function prototype specifies a syntax for invoking the function, or that the function prototype specifies a name for the function, as recited in the independent claims (Office Action at page 4 for claim 1; Office Action at page 5 for claim 5; Office Action at page 6 for claim 12; Office Action at page 8 for claim 17; Office Action at page 9 for claim 24; Office Action at page 11 for claim 32; Office Action at page 12 for claim 34; Office Action at page 14 for claim 43; Office Action at page 16 for claim 52; Office Action at page 19 for claim 61; Office Action at

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page 20 for claim 66; Office Action at page 22 for claim 70; Office Action at page 23 for claim 74).

For the above-cited features of independent claims 1, 5, 12, 17, 24, 32, 34, 43, 52, 61, 66, 70, and 74, the Examiner relies on Stateflow 3. However, as noted above, Stateflow 3 is not available as prior art.

Applicants therefore respectfully request that the 35 U.S.C. §103(a) rejection of claims 1-2, 4-6, 12-13, 15-18, 21-24, 28-30, 32, 34-40, 42-49, 51-58, and 60-78 be withdrawn.

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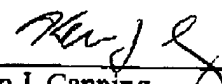
CONCLUSION

In view of the above, Applicants believe the pending application is in condition for allowance and urge the Examiner to pass the claims to allowance. Should the Examiner feel that a teleconference would expedite the prosecution of this Application, the Examiner is urged to contact the Applicants' attorney at (617) 227-7400.

Please charge any shortage or credit any overpayment of fees to our Deposit Account No. 12-0080 under Order No. MWS-070RCE2. In the event that a petition for an extension of time is required to be submitted herewith, and the requisite petition does not accompany this response, the undersigned hereby petitions under 37 C.F.R. §1.136(a) for an extension of time for as many months as are required to render this submission timely. Any fee due is authorized to be charged to the aforementioned Deposit Account.

Dated: December 5, 2008

Respectfully submitted,

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APPENDIX

Mathworks' Internal Documentation:

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/devel/archive/R11/web_downloads/products/may00/pc>ls -lt total 31948 -r-xr-xr-x
1 batserve daemon 7286272 May 24 2000 Fixed-Point_Blockset.exe* -r-xr-xr-x 1
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